

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

HABNAB TRANSPORTATION, INC. : CIVIL ACTION NO. 1:05-cv-375 (GMS)  
*Plaintiff,* :  
v. :  
US TRANSPORTATION SERVICES, INC.:  
and US BULK TRANSPORT, INC., :  
and/or U.S. BULK TRANSPORT IC, INC. :  
*Defendants.* :

**ANSWER TO COUNTERCLAIM**

Plaintiff and Counterclaim Defendant, HabNab Transportation, Inc. (hereinafter "HabNab"), by and through its attorneys, Rawle & Henderson LLP answers the counterclaim and in support of same avers as follows:

1. Hab Nab Transportation, Inc. incorporates all allegations of its Complaint as if set forth fully herein.
2. Admitted upon information and belief.
3. Admitted.
4. Admitted that Hab Nab Trucking is a Delaware Corporation and that it is a motor carrier duly authorized by DOT under said permit number.
5. Denied as stated. The allegations contained in this paragraph are conclusions of law to which no responsive pleading is required. Strict proof of same is required.

**BACKGROUND**

6. Denied as stated. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity

of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

7. Denied. Hab Nab has no record of this confirmation. By way of further answer, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied.

8. Denied. Hab Nab has no record of this confirmation. By way of further answer, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied.

9. Denied. Denied as stated. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

10. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab upon information and belief, the loads were brokered to the motor carrier, Ritter Feeds, Inc.

11. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

12. Denied as stated. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

13. Denied as stated. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

14. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

15. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

16. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity

of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

17. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

18. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

19. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

20. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

**COUNT I- BREACH OF CONTRACT**

21. Hab Nab Transportation, Inc. incorporates all allegations of its Complaint and to paragraphs 2-19 of the counterclaim as if set forth fully herein.

22. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. In addition, the allegations contained in this paragraph constitute legal conclusions to which no responsive pleading is required. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

23. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

25. Denied. It is explicitly denied that Hab Nab Trucking was contacted or involved in the described transaction. Further, Hab Nab has no record of the confirmation and to the extent that the allegation in this paragraph constitute a conclusion of law are denied. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

26. Denied. The allegation in this paragraph constitutes a conclusion of law to which no responsive pleading is required and is denied. Strict proof will be required at the time of trial.

WHEREFORE, Hab Nab, defendant on the counterclaim respectfully request the dismissal of the counterclaim together with costs and expenses, interest and any other relief the Court deems equitable and just.

COUNT II - INDEMNIFICATION AND CONTRIBUTION

27. Hab Nab Transportation, Inc. incorporates all allegations of its Complaint and to paragraphs 2-26 of the counterclaim as if set forth fully herein.

28. Denied. Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

29. Denied. Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

30. Denied. Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

31. Denied. Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

32. Denied. Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

33. Denied. The allegations contained in this paragraph constitute legal conclusions to which no responsive pleading is required. By way of further answer, and not in derogation

of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

WHEREFORE, Hab Nab, defendant on the counterclaim respectfully request the dismissal of the counterclaim together with costs and expenses, interest and any other relief the Court deems equitable and just.

COUNT III - SETOFF

34. Hab Nab Transportation, Inc. incorporates all allegations of its Complaint and to paragraphs 2-33 of the counterclaim as if set forth fully herein.

35. Denied. Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

36. Denied. Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

37. Denied. Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

38. Denied. Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

39. Denied. Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

40. Denied. The allegations contained in this paragraph constitute legal conclusions to which no responsive pleading is required. By way of further answer, and not in derogation of the foregoing, Hab Nab is without sufficient information to form a belief as to the truth or falsity of the averment herein, therefore same is denied. Strict proof will be required at the time of trial.

WHEREFORE, Hab Nab, defendant on the counterclaim respectfully request the dismissal of the counterclaim together with costs and expenses, interest and any other relief the Court deems equitable and just.

RAWLE & HENDERSON LLP

Date: October 28, 2005

/s/ *Delia A. Clark*  
Delia Clark(3337)  
300 Delaware Avenue, Suite 1015  
Wilmington, DE 19809  
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CERTIFICATE OF SERVICE

I, Delia A. Clark, hereby certifies that the foregoing Answer to the Counterclaim was served upon the below counsel electronically on this the 28th day of October, 2005.

Denise Seastone Kraft  
EDWARDS & ANGELL  
919 N. Market St.  
Wilmington, DE 19801

*/s/ Delia A. Clark*  
Delia A. Clark

October 28, 2005